



*Founded by and dedicated to the professional insurance company loss control representative*

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## A message from the President... and request for member participation / input

It's hard to believe that we are over a month into 2015—time is going quickly! I'd like to thank everyone again for the great turnout and feedback from our 2014 conference. The assessments are invaluable for conference planning. Board members are reading through your comments, discussing options for incorporating your ideas into the next conference, and beginning to sort down topics.

This year emphasis for the ILCA board is twofold:

- 1) Enhancement of the ILCA website so that it is of higher value to members and
- 2) Planning and conducting the 2015 conference.

We realize our website needs updating and to that end we have the following goals:

- Make it a destination site for members and conference attendees
- Provide an attractive marketing platform for advertisers
- Improve overall appearance
- Develop & implement a better user interface

**If anyone has experience or desire to participate** in improving our website please let any board member know as this may be an area of opportunity for specialized interest.

Topics provided in conference summaries are listed below. If you have additional suggestions, please feel free to communicate and **if you know of high quality speakers that would line up with these topics, please let us know** as we would appreciate any and all references.

- |                                      |                                                |                                    |
|--------------------------------------|------------------------------------------------|------------------------------------|
| Nanotechnology                       | Products Liability                             | Selling safety services            |
| Combustible Dust                     | DOT recordkeeping (Driver files...)            | Interviewing                       |
| Roofs                                | Cargo / Load securement                        | Continuing Education               |
| Bus. Interruption / Equip. Breakdown | Special hazards (painting / flammable liquids) | Return to work/ case studies       |
| Slip / Trip / Falls                  | Electrical                                     | JHA's / JSA's                      |
| Disaster Planning                    | Thermography                                   | Ergonomics                         |
| Theft Prevention / Security          | Specialized Fire Protection                    | GHS                                |
| Camps / Playgrounds / Pool Safety    | Rack storage / Plastics                        | LC technical tools                 |
| Restaurants (all lines including WC) | Builders Risk                                  | Agri-business                      |
| Contractor Liability (contracts)     | Building Specific (EIFS)                       | Other underwriting / claims topics |
| LC & Underwriters working together   | LC Roundtable                                  |                                    |

It would be great to hear from you before the end of March on our topics, potential speakers, and website ideas. Volunteers to assist with website changes would be welcomed. Our desire to make ILCA a better and stronger organization and member participation would be valued.

Thank you!  
Ron Huber, 2015 ILCA President

## Paul Hammer Receives ILCA Lifetime Member

At the recent annual conference, Paul Hammer was recognized for his outstanding service to the insurance loss control profession and to ILCA. He was nominated for this award by the Risk Management staff of The Motorists Insurance Group. The membership of the Association in attendance of the conference voted unanimously to convey this award to Paul. Congratulations Paul!

Candidates for the Lifetime Member Award are members in good standing in the Association who have: (a) reached the age of retirement in their respective companies and (b) have had an active membership in the Association for at least (10) years, may have a life membership conferred upon them by a majority vote of the active members in attendance at a regular meeting of The Association.



*Paul Hammer (left) and Ron Huber (right)*

## Benefits for Student Members—Success Story

Attending ILCA annual conferences can provide an avenue for contacts and a safety career start in Insurance Loss Control. An example is Jon Finn who just graduated from Slippery Rock University with a degree in Occupational Safety and Health. As an undergraduate and student member, Jon attended an ILCA conference in Columbus where we were introduced. We kept in communication and Jon was our first choice when we opened an opportunity for a paid summer intern in 2014. In fact, Jon was the only occupational safety candidate. Through his high efforts during his summer internship, Jon was offered, and accepted, a consultant position in Atlanta, Georgia which he started at the end of December 2014 following graduation. Living in the south was Jon's desire and we had an open position so it was a great match!

Jon showed and illustrated high interest in the Loss Control profession from our initial and ongoing communication. Background information factoring into his internship and hiring included:

- Jon being the FIRST Student Member of ILCA
- Jon being active in the insurance industry during his college years via working for an ILCA supporting national vendor and progressing from entry level training through middle market survey work.
- Jon's drive and expressed ambition to pursuing a Loss Control career with an insurance carrier
- Jon's attendance at ILCA conferences during his college tenure.

The ILCA membership body that attends the annual conference consists of many hiring managers in the industry. This is a success story of how networking available at the conference can develop contacts and evolve into company positions for student members. ILCA contacts can provide a start for a great career!

Ron Huber, CSP, ALCM  
Risk Control Manager  
Grange Insurance



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## OSHA-RELATED DOCUMENTS: CREATION AND RETENTION

By Mark A. Lies II & Ilana R. Morady

### INTRODUCTION

As most employers are aware, OSHA inspections typically involve a request for the employer to produce certain documents. In many cases, employers are unsure of what documents the compliance officer is entitled to see and copy. Employers can also be unsure of how long to retain certain documents required under OSHA. Some OSHA regulations require a specific retention period for documents. Other OSHA regulations, however, do not (although it is often advisable to retain certain documents even if retention is not technically required.) This article is intended to give general guidance in these areas.

### CATEGORIES OF DOCUMENTS

The following list sets out the typical OSHA standards and the General Duty Clause that may require an employer to create, retain, and produce certain documents during the course of an inspection, if requested by the OSHA compliance officer. Obviously, whether the employer is required to have certain of these programs or others will be dependent upon the nature of the work activities at the site. This list is focused on the standards that are applicable to employers in General Industry (29 CFR 1910 et. seq.) and not Construction Industry (29 CFR 1926 et. seq.) although some General Industry standards are substantially similar and also applicable to the Construction Industry. There are many hazards that are common to each industry but the regulatory obligations frequently differ. For those employers in the Construction Industries, it will be necessary to reference the existing regulations addressing hazards in that industry when responding to an OSHA document request.

During the inspection, the employer should request the compliance officer to make the document request in writing (it can be handwritten) so that there is no confusion over what documents are being requested and so that the employer is not cited for failure to produce a document it did not believe was requested by the compliance officer. The employer's on-site representative should review this request with management and decide which documents will be produced to the compliance officer. It is important to remember that the employer has no duty to produce certain documents (**e.g., post-accident investigations, insurance audits, consultant reports, employee personnel information**) because no regulation requires such production. It is important to note that any documents produced can be utilized to issue citations, thus, the employer should not produce any documents unless required by law.

### 1. Control of Hazardous Energy—Lockout/Tagout (LOTO)

29 CFR 1910.147—requires the employer to develop procedures to protect employees who service or maintain its machines against unexpected energization or startup of equipment or release of stored energy.

29 CFR 1910.147(c)(7) - the employer must train its “authorized” employees how perform LOTO with these procedures, as well as “affected” employees who may be exposed to the equipment.

29 CFR 1910.147(f)(2) - requires the on-site employer and outside employer to inform each other of their respective lockout or tagout procedures.

**Document Retention:** The LOTO standard requires employers to certify that periodic inspections have been performed at least annually. Accordingly, employers should retain certifications for 1 year, or until a new certification is created. It is also advisable that employers retain employee LOTO training records for the duration of employment.

### 2. Occupational Noise Exposure

29 CFR 1910.95—requires the employer to provide a hearing conservation program (education, annual audiograms, hearing protection) for employees who are exposed to noise levels equal to or exceeding an 8 hour time weighted average (TWA) of 85 decibels on the A scale. The employer must conduct a noise survey to determine those jobs which may require employees to be included in the program. Employees who suffer hearing loss at certain frequencies must be included in the OSHA 300 Log. The employer must develop a written program and administer it.

**Document retention:** Employers must retain noise exposure measurement records for two years. Employers must also retain audiometric test records for the duration of the affected employee’s employment.

### 3. Personal Protective Equipment (PPE)

29 CFR 1910.132—the employer must conduct an initial certified hazard assessment of the workplace to determine if hazards are present which require personal protective equipment for eyes, face, head and extremities to protect against injury. The employer must provide each employee with the necessary PPE, train the employee in the use of PPE and enforce its use. The employer must pay for the PPE with limited exceptions.

The second certification is required to confirm that the PPE was provided, the employee received training in how to utilize it and that the employee “understood” the training.

**Document Retention:** Employers should retain the written certifications of a hazard assessment and employee training for the duration of employment for all employees exposed to identified hazards. It is also advisable for employers to retain employee PPE training records for the duration of employment.

#### 4. Hazard Communication (Employee Right to Know)

29 CFR 1910.1200—requires the employer to develop a written hazard communication program to protect employees against any hazardous chemical which presents a physical or health hazard. The employer is required to conduct an assessment to determine which hazardous chemicals may be present, to inform employees of the presence of the hazardous chemicals, train employees on how to read a Safety Data Sheet (SDS) for each hazardous chemical.

Employers are entitled to access to the SDS and to obtain copies.

**Document retention:** Employers must retain SDSs for the duration of employment plus 30 years for all employees exposed to the chemical in question, unless there is some other record of the identity of the substance or chemical, where it was used and when it was used. The employer must also be sure it has a copy of all SDSs for all chemicals that are currently in use. It is also advisable for employers to retain employee hazard communication training records for the duration of employment.

#### 5. Process Safety Management

29 CFR 1910.119—requires employers who utilize certain toxic, reactive, flammable or explosive chemicals in certain quantities, to develop a written fourteen (14) part PSM program. The PSM program addresses all aspects of work around the covered “process” that utilizes the chemicals.

29 CFR 1910.119(h) - requires training of contractor employees who perform certain work around the covered process concerning the hazards and elements of the PSM program.

**Document retention:** Employers must retain process hazard analyses (PHAs) for the life of the covered process. In addition, the employer must prepare a written record that each employee who is involved in the operation of the process was trained and understood the training. These verification records should be retained for the length of the employee’s employment. We recommend that employers also retain all process safety information (PSI) used for developing, maintaining, auditing, and otherwise managing all processes for the life of the processes. Any incident investigations conducted under the PSM standard must be retained for 5 years. Additionally, employers must retain the two most recent compliance audit reports conducted under the PSM standard.

## 6. Emergency Action Plans

29 CFR 1910.38—requires the employer to develop an emergency action plan to protect employees against the hazards of fires or other emergencies. The EAP must include provisions for reporting a fire or other emergency, evacuation procedures and the alarm system. The employer must train each employee. 29 CFR 1910.38(e).

**Document Retention:** There are no specific document retention requirements under 29 CFR 1910.38, aside from the requirement that employers develop and maintain a written EAP. If the employer has ten (10) or fewer employees, the plan does not have to be in writing.

## 7. Fire Extinguishers

29 CFR 1910.157—requires the employer to provide fire extinguishers and mount, locate and identify them so that they are readily accessible to employees.

If employees are expected to use the fire extinguishers, the employer must provide training upon initial employment and at least annually thereafter. The employer must develop an educational program if it expects the employees to use the fire extinguishers. Many employers specifically prohibit employees from using the fire extinguishers to avoid this training obligation. If the employer permits the employees to use the fire extinguishers, the educational program and training should be in writing and maintained for the length of employment.

## 8. Permit-Required Confined Spaces

29 CFR 1910.146—requires the employer to identify all confined spaces within the workplace that employees or outside contractors may be required to enter and contain a hazardous atmosphere, engulfment hazard, an internal configuration that could trap or asphyxiate an entrant or other serious safety or health hazard. The employer must develop a written program and procedures for employees who enter the confined spaces. Only trained and authorized employees can enter the space.

1910.146(c)(8) - requires the host-employer to provide certain information to other contractors who will have their employees enter the space.

**Document Retention:** Employers must retain each canceled entry permit for at least 1 year and review them within one year after each entry. It is also advisable to retain employee confined space training records for the duration of employment.

## 9. Bloodborne Pathogens

29 CFR 1910.1030—requires an employer to develop a written program to protect employees at the workplace who are reasonably expected to have occupational exposure to bloodborne pathogens, i.e., bloodborne diseases. The employer is required to assess all jobs to determine if there is such exposure and if so, to train employees in the hazards, provide PPE and to develop procedures for medical evaluation and treatment if an employee has actual exposure.

**Document retention:** Employers must retain employee exposure records for the duration of employment plus 30 years. Training records must be retained for 3 years from the date on which the training occurred, although it is advisable to retain training records for the duration of employment.

## 10. Respiratory Protection

29 CFR 1910.134—requires the employer to conduct an assessment of the workplace to determine if there are harmful dusts, fumes, mists, sprays or vapors which may create a respiratory health hazard. If there are such hazards, the employer is required to develop a written respiratory protection program, to evaluate employees to determine if they are physically capable of wearing a respirator, to provide such respiratory protection, at the employer's cost, and train employees how to wear and maintain respiratory protection. The employer must enforce use of the respiratory protection.

**Document retention:** Employers must retain records of employee medical evaluations for the duration of employment plus 30 years. Employers must also retain fit test records for respirator users until the next fit test is administered.

## 11. Electrical Safety (Safety-Related Work Practices)

29 CFR 1910.331-.335—requires an employer who will permit its employees to perform work on or in the vicinity of exposed energized parts (which cannot be locked out and tagged out) to provide extensive training in the hazards of working or in the vicinity of live electrical equipment, protective clothing and insulated tools and devices. The employer must designate employees as “authorized” in order to perform such work or “unqualified” in which case such employees cannot perform such work. The employer may be required to conduct an electrical exposure hazard survey of electrical equipment under NFPA 70E in order to determine what PPE should be used, what training is necessary, and to otherwise be in compliance with OSHA safety requirements.

**Document retention:** OSHA's electrical safety standards do not have any specific record retention requirements, however it is advisable to retain employee training records under these standards for the duration of employment. If an employer conducts an electrical exposure hazard survey, the employer should retain it for as long as the hazard exists.

## 12. Access to Employee Exposure and Medical Records

29 CFR 1910.1020—requires employer to inform employees of their right to have access to all records maintained by the employer that reflect an employee’s exposure to any toxic substance or harmful physical agent (e.g., chemicals, dusts, vapors, noise, mold, etc.) or any medical records which the employer maintains on an employee, except for certain exceptions. Employees are entitled to have access and to obtain a copy at the employer’s expense.

**Document Retention:** Employers must retain employee exposure records for the duration of employment plus 30 years. If the employer maintains certain employee medical records, the employer must retain them for the duration of employment plus 30 years.

## 13. Powered Industrial Trucks

29 CFR 1910.178—requires an employer to develop a written program to train all employees who will be required and authorized to operate powered industrial trucks (including forklifts, manlifts, etc.) as to the hazards of such equipment and to certify their training after they receive classroom-type training and are actually observed operating the equipment under the physical conditions at the workplace, such as aisles, ramps, etc. The employee must be retrained and recertified every three years, at minimum, or after an accident or “near miss” which resulted from an unsafe act.

**Document retention:** The powered industrial truck standard does not specify how long training certifications must be retained after the initial certification or the certification required every three years or after a “near miss”. It is advisable that employers retain the training certifications for the duration of employment for each employee.

## 14. OSHA 300 Log of Work-Related Fatalities, Injuries and Illness

29 CFR 1904.0—the OSHA 300 Log must be maintained by employers unless there is an exemption, based on the NAICS code or the size of the employer. The employer is required to record on the Log, within seven (7) calendar days, each fatality, injury or illness that is recordable under OSHA definitions. The host employer is required to enter into its Log the injuries or illnesses of outside employees at the worksite under certain conditions, for example, temporary employees who are under the direction and control of the host employer.

The OSHA 300 Log must be maintained and certified by the employer on an annual basis. For each entry on the Log, there must be an OSHA 301 Incident Report form, or its equivalent, which can be the employer’s First Report of Injury or Illness form required by the State worker’s compensation law. An annual summary must be prepared and posted using the 300-A annual summary form or an equivalent. In order to comply with OSHA’s recordkeeping requirements, it is critical that employees are trained from their initial employment that they must immediately report any occupational injury or illness to

determine if it is recordable.

**Document retention:** The OSHA Log, the annual summary, and the OSHA Incident Report forms must be retained by employers for 5 years following the end of the calendar year that these records cover. The OSHA Log must be maintained on an “establishment basis” based on NAICS codes. It is possible that employers may have some “establishments” where a Log must be maintained, and others where maintaining a Log is not necessary.

## 15. General Duty Clause

Section 5(a)(1) of the OSHA Act requires an employer to identify “recognized hazards likely to cause serious injury or death” to an employee, which hazards may not be regulated by a specific OSHA regulation, and take “feasible” actions to abate or correct such hazards.

This duty can be based upon the “recognition” of the hazard in the employer’s own, existing programs, or within the employer’s industry. Some examples of this legal obligation may be:

Ergonomics

Heat Illness

Workplace violence

Combustible dust

**Document retention:** While there are no specific standards for “recognized hazards” covered under the General Duty Clause, and thus no specific record retention requirements, it is advisable for employers to retain any training records it has developed addressing any “recognized hazards” for the duration of employment, including the written policy, training records and documents that evidence discipline for violation of the policy. Remember that certain documents related to General Duty Clause obligations may also fall under exposure/medical record-keeping requirements (see #11 above).

## 16. Disciplinary Records

There is no regulation that requires an employer to maintain written records of employee discipline for violations of the employer's safety and health policies. If, however, the employer wants to credibly assert the "unavoidable employee misconduct" defense to avoid liability for OSHA citations, the employer is highly recommended to maintain written records of discipline indicating the nature of the violation, the date, the name of the employee who committed the violation and the name of the supervisor who imposed the discipline.

This same documentation can be useful in the event that the employer has to defend an employment discrimination or wrongful termination action by being able to prove that the action was based on a legitimate non-discriminatory reason, that is, violation of safety and health policies.

### CONCLUSION

In addition to the summary of OSHA-related documents discussed above, there are numerous other OSHA regulations that may have document retention requirements. If an employer is subject to any these regulations, the regulations must be reviewed and appropriate document retention procedures must be developed.

Remember that it is critical that an employer control the flow of information during the inspection, including the information contained in documents. By avoiding production of documentary evidence that is not required by law, the employer reduces the potential for regulatory citations. It is also critical that employers understand what documents they are required to create and retain. Even when an OSHA standard does not specify how long certain records must be retained, it is advisable to consider retaining such records for a significant length of time. For example, many OSHA standards require employee training, but do not necessarily require documentation of training or retention of training documents. Nonetheless, it is advisable to prepare and retain training documents for the duration of employment because training documents are often indispensable in asserting certain defenses to citations.

## MEMBER SPOTLIGHT: ROBERT CRUSE

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Robert Cruse is a HPR Sr. Account Engineer with Fireman's Fund Insurance Company. We asked him a few questions about becoming involved in the association and his interest in the loss control profession.

**What is your educational background?** Graduate degree in Occupational Safety Management, Indiana State University.

**What made you decide to work in the insurance loss control field?** My early interest developed into a passion from experiences at Indiana State University, School of Insurance and Risk Management, and then Department Chair Dr. Mary Ann Boose.

**What has been your career history?** My career began by enlisting in the Indiana Air National Guard at age 18; and concurrently enrolled at Indiana State. Transferred to Army, entered, and completed ARMY R.O.T.C. program. Graduated college and gained first Loss Control job at American States (Safeco) Insurance from years 1996—2008. Completed 20 years reserve military service, and also worked at Grange Insurance until late 2014. Joined Fireman's Fund, that is now part of Allianz Global Corporate & Specialty®, as a HPR Sr. Account Engineer.

**What is the history of Fireman's Fund Insurance Company?** Fireman's Fund Insurance was founded in 1863 in San Francisco. Its name reflects its founding mission in which 10 percent of profits were paid to the widows and orphans of fallen firefighters. The company has been, for many years, a principal U.S. subsidiary of Allianz SE, a global financial services company, the 20th largest corporation in the world based on revenue (Fortune Global 500, August 2010). Beginning January 2015, Fireman's Fund has become part of Allianz Global Corporate & Specialty®.

**What has been the best part and the most challenging parts in your job?** Most challenging aspect continues to be the transition from 18 years providing multi-line loss control to now working in HPR, and focusing solely on large property exposure control and risk evaluation.

**What do you think are the biggest issues facing the insurance loss control profession and the insurance industry in the next five years? Why?** As the youngest person I know in our profession, a concern that I have is, how to attract the younger generations to want to pursue a career in loss control (proud to say that the ILCA board (especially Stig Ruxlow and Dan Finn) have made this a renewed priority and we are starting to see the fruits of some of that labor).

**In what roles have you served ILCA or other safety associations?** Served ILCA as 2nd and now 1st Vice President.

**If you were not employed in insurance loss control, what would you like to do?** I've always had two primary interests: working in some capacity in financial markets and helping mistreated / abandoned animals.

**What are your favorite non-work activities?** I'm a big sports fan and closely follow Indianapolis Colts, Indiana Pacers, and Indy 500. Probably the most time consuming, non-work activity, involves keeping up with our Border Collie dogs that continue to go, go, and go no matter what the weather is outside.

## **MEMBER PARTICIPATION**

**We encourage you to get involved with the organization in any way you feel you can contribute.**

**If you would like to participate in a Conference Call with the Website Committee, we invite you to do so.**

**The conference call is scheduled for Friday, May 20th at 1:00pm CST / 2:00pm EST.**

**If you would like the call-in information, please contact Kristi Ruxlow at [administration@insurancelosscontrol.org](mailto:administration@insurancelosscontrol.org).**



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